

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11
: Case No. 11-15463 (SHL)
AMR Corporation, *et al.*, :
: (Jointly Administered)
Debtors. :
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STATEMENT OF THE UNITED STATES OF AMERICA

The United States respectfully submits this Statement in response to the Court’s invitation to any interested party to address whether the Court should confirm the Debtors’ proposed plan of reorganization (the “Plan”) at this time in light of the antitrust suit filed by the United States, six states, and the District of Columbia on August 13, 2013, in the U.S. District Court for the District of Columbia. The United States’ complaint alleges that the proposed merger of US Airways and American Airlines (together, the “Airlines”)—the central element of the Debtors’ plan for emerging from bankruptcy—violates Section 7 of the Clayton Act, 15 U.S.C. 18, because the effect of the transaction “may be substantially to lessen competition” in markets for scheduled air passenger service across the United States. The United States seeks a permanent injunction blocking the transaction in its entirety.

In this Statement, the United States does not take a position on whether or not the Court should confirm the Plan. Rather, to the extent it would be useful to this Court’s decisionmaking, the United States seeks to provide some background regarding the timing of the filing of the antitrust suit, as well as to provide its assessment of timing in the antitrust suit going forward.

The Airlines notified the Department of Justice of their intent to merge on January 31, 2013, and they requested that the Department make its enforcement decision prior to this Court's August 15, 2013, hearing on confirmation of the Plan. The Airlines produced the bulk of their response to the Department's request for additional information in May 2013. Throughout its investigation, the Department engaged with the Airlines on the concerns raised by the proposed merger; these discussions culminated in a series of meetings in late July and early August 2013. In particular, in a May 28, 2013, letter, the Airlines asked to schedule a meeting with Assistant Attorney General William J. Baer by August 5, 2013, to discuss the government's concerns with respect to the merger. That meeting took place on August 6, 2013 (at the Airlines' request), and the United States filed its suit on August 13, 2013.

A trial schedule has not yet been set for the antitrust case, but a case of this size and complexity can take a significant amount of time to litigate. Antitrust cases require extensive fact and expert discovery to enable all parties to develop a full factual record. For example, the most recent antitrust merger case brought by the United States in the District of Columbia, *U.S. v. AT&T, T-Mobile USA, Inc., and Deutsche Telekom AG*, was filed in August 2011 and scheduled for trial in February 2012. The United States plans to propose a similar schedule in this case, calling for trial to begin in 2014 as early as the Court's schedule permits. The Airlines are requesting that trial start in November 2013. Ultimately, Judge Kollar-Kotelly of the U.S. District Court for the District of Columbia will decide the pre-trial and trial schedule.

The United States takes no position as to whether the Debtors' Plan should be confirmed now, notwithstanding the pendency of the antitrust suit and the attendant risk that a confirmed plan may not be able to become effective for a considerable time, if at all.

Dated: August 23, 2013
New York, New York

Respectfully submitted,

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